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**REMARKS**

Reconsideration and allowance are respectfully requested. Claims 9-11 are currently pending and stand rejected. No new matter has been added.

**§ 112 rejection**

Claims 9-11 were rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. The Examiner stated that the claims contain subject matter that was not described in the specification in such a way as to reasonably convey to one skilled in the art that the inventor, at the time the application was filed, had possession of the claimed invention. Withdrawal of the rejection is respectfully requested.

With regards to independent claim 9, the Examiner stated that it is unclear from the written description how the vehicle component position data is used by the on-board system to evaluate optimum vehicle loading. In the written description, page 5, lines 13-21, of the application as originally filed, Applicant discloses the monitoring and evaluation of static and dynamic vehicle characteristics for use in load distribution analysis. Static and dynamic equations for load distribution analysis are well known in the art.

Also with regards to independent claim 9, the Examiner stated that there are no algorithms given as to how the evaluation unit uses weight and position data to instruct the user on how to arrange the load. In addition to the disclosure stated above, Applicant also specifically

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discloses in the written description, page 6, lines 1-12, of the application as filed, that "[t]he algorithms to perform these calculations are well within the skill of the worker in the art."

Further, as there is support in the written description as originally filed as to how the vehicle component position data is used by the on-board system to evaluate optimum vehicle loading and for the lack of algorithms given, Applicant respectfully requests the rejection be withdrawn.

With regards to dependent claims 10 and 11, in the written description, page 5, lines 19-20, of the application as originally filed, Applicant discloses both the axle and kingpin as components. Because claims 10 and 11 depend from a fully-supported claim 9, and Applicant clearly discloses the additional limitations, withdrawal of this rejection is also respectfully requested.

#### § 102 rejections

Claims 9 and 10 are rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,157,889 to Baker ("Baker"). Applicant respectfully traverses this rejection.

The Examiner stated that Baker discloses at least one load sensor (42) and a position sensor for determining the position of a component of the vehicle for optimizing vehicle loading (col. 5, lines 29-39) where the component is an axle (col. 4, lines 39-52). The position sensor of Baker does not determine the optimum position of a component of the vehicle. Instead, the position sensor of Baker is a positioning system capable of tracking the entire vehicle's location and orientation (col. 5, lines 31-33). Claim 9, by contrast, includes a position sensor in

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communication with an evaluation unit "for determining the position of a component. Simply, nothing in the Baker patent can meet this limitation.

Further, as disclosed in Baker, the axle is not a component whose position is to be determined by a position sensor. Instead, the axle of Baker is a component to which a weight sensor (42) is mounted (col. 4, lines 40-43). Claim 10, by contrast, includes a position sensor in communication with an evaluation unit for determining the position of a component of a vehicle for optimizing vehicle loading, "wherein said component is an axle."

Thus, because Baker fails to disclose a position sensor for determining the position of a component of the vehicle, Baker fails to anticipate claim 9. Furthermore, because Baker fails to disclose an axle as a component whose position is to be determined by the position sensor, Baker also fails to anticipate claim 10. Withdrawal of the rejection is therefore respectfully requested.

Claims 9 and 10 are further rejected under 35 U.S.C. § 102(b) as being clearly anticipated by U.S. Patent No. 4,651,838 to Hamilton et al. ("Hamilton"). Applicant respectfully traverses this rejection.

The Examiner stated that Hamilton discloses at least one load sensor (65), a memory unit (74) for storing load optimization data (col. 8, lines 25-35), and a position sensor (120) for determining the position of an axle component of the vehicle for optimizing vehicle loading (col. 8, lines 25-40 and col. 12, lines 3-68). The memory unit (74) of Hamilton does not store optimization data. Instead, the memory unit (74) of Hamilton is a back-up unit utilized in the event of a power failure for storing a load determined from the calibration cycle (col. 7, lines 59-63). Claim 9, by contrast, requires "a memory unit for storing optimization data."

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Furthermore, the position sensors (120) of Hamilton are not used for determining the position of an axle component of the vehicle for optimizing vehicle loading. Instead, the position sensors (120) of Hamilton provide the reference points, i.e. spring height, necessary to determine the load on each spring (col. 8, lines 37-40). In addition, the position sensors (120) of Hamilton are selectively activated and inactivated to determine the relative height of the chassis with respect to the ground (col. 12, lines 10-15). Claim 9, by contrast, requires "a position sensor in communication with an evaluation unit for determining the position of a component" for optimizing vehicle loading. Claim 10 further limits claim 9 by requiring that the component "is an axle." The Hamilton patent simply cannot meet either of these limitations.

Thus, because Hamilton fails to disclose a memory unit (74) for storing load optimization data, and a position sensor for determining the position of a component of the vehicle for optimizing vehicle loading, Hamilton fails to anticipate claims 9. Furthermore, because Hamilton fails to disclose an axle as a component whose position is to be determined by the position sensor, Hamilton also fails to anticipate claim 10. Withdrawal of the rejection is therefore respectfully requested.

As to the 35 USC §103 rejections, they are all improper. None of the references, alone or taken with each other, can meet the limitation of "a position sensor in communication with said evaluation unit for determining the position of a component of said vehicle for optimizing vehicle loading by determining a desired position for said vehicle component relative to a vehicle body."

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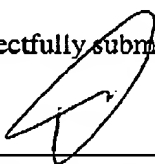
Applicant's invention determines a desired location for a component, such as an axle or a king pin, to optimize the vehicle loading. None of the references can do this.

It is not applicant's position that it invented a position sensor, or that the addition of a position sensor at some location would be necessarily patentable. But, the specific use of a position sensor to identify a desired position for the component is novel, and non-obvious.

All objections and rejections having been addressed, it is respectfully submitted that the present application is in condition for allowance, and a Notice to that effect is earnestly solicited.

Fees in the amount of \$420.00 may be charged to Deposit Account No. 50-1482 in the name of Carlson, Gaskey & Olds for a two-month extension. Further, the Commissioner is authorized to charge Deposit Account No. 50-1482 in the name of Carlson, Gaskey & Olds for any additional fees or credit the account for any overpayment.

Respectfully submitted,



Theodore W. Olds, Reg. No. 33,080  
400 W. Maple Rd., Ste. 350  
Birmingham, MI 48009  
(248) 988-8360

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CERTIFICATE OF TRANSMISSION UNDER 37 CFR 1.8

I hereby certify that this correspondence is being facsimile transmitted to the United States patent and Trademark Office, fax number (703) 872-9306, on February 2, 2004.



Laura Combs